

PROB. 12B
(7/93)

ORIGINAL

United States District Court

for the

DISTRICT OF HAWAII

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

MAR 10 2008

at 10 o'clock and 40 min. A.M.
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: KELLEY MARIE FERGUSON

Case Number: CR 03-00226HG-01

Name of Sentencing Judicial Officer: The Honorable Helen Gillmor
Chief U.S. District Judge

Date of Original Sentence: 9/22/2003

Original Offense: Count 1: Conveying False Information Concerning an Attempt to Cause Death to Passengers and Employees of a Mass Transportation Provider Engaged in and Affecting Foreign Commerce, in violation of 18 U.S.C. §§ 1993(a)(6) and (7), a Class C felony

Original Sentence: Twenty-four (24) months imprisonment and three (3) years supervised release with the following special conditions: 1) That the defendant participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office; 2) That the defendant participate in a mental health program at the discretion and direction of the Probation Office; and 3) That the defendant provide the Probation Office access to any requested financial information.

Type of Supervision: Supervised Release Date Supervision Commenced: 7/8/2005

PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

- 4) *Kelley Marie Ferguson shall participate for a period of two months in a home detention program which may include electronic monitoring, GPS, Alcohol Monitoring Unit or automated identification systems and shall observe all rules of such program, as directed by the Probation Officer. Kelley Marie Ferguson shall maintain a residential telephone line without devices and/or services that may interrupt operation of the monitoring equipment.*

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Kelley Marie Ferguson shall pay the costs of home confinement monitoring to the contract vendor, not to exceed the sum of \$12.00 for each day of participation. The defendant shall provide payment and proof of payment as instructed.

CAUSE

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1. General Condition and Standard Condition No. 7	The subject admitted to unlawfully using hydrocodone on or about 9/17/2007.
2. Standard Condition No. 5	On or about 9/28/2007, the subject failed to work regularly at a lawful occupation.
3. Standard Condition No. 3	The subject failed to answer truthfully all inquiries by the probation officer.

The subject's term of supervised release commenced in the Central District of California (CD/CA) on 7/8/2005. Our office recently received a letter from the subject's supervising probation officer in that district requesting the above-noted modification. The letter indicated that the subject illegally used several prescription drugs, failed to work regularly at a lawful occupation, and was untruthful about her employment.

Our office was advised that on 9/17/2007, the subject reported to the CD/CA Probation Office and submitted a urine specimen that tested presumptive positive for morphine. When the probation officer questioned the subject about the presumptive positive test, she stated that she had a migraine headache that day and took an Imitrex sample that she had obtained from the medical office where she was employed. The subject stated that she had no medical insurance and admitted to taking the medication without a prescription. The subject acknowledged that taking medication not prescribed to her was serious and a violation of her supervision. The subject's urine specimen was forwarded to a lab and was confirmed positive for hydrocodone.


On 10/25/2007, the subject again reported to the Probation Office in the CD/CA to discuss her drug test results. The probation officer notified the subject that the results of her urine specimen were not consistent with using Imitrex. The subject stated that on 9/17/2007, she also took hydrocodone in addition to the Imitrex. The subject admitted that she did not have a prescription for hydrocodone. During this meeting, the subject indicated that she had recently been advised by her employer that she may be laid off from her job.

On 10/29/2007, the subject contacted her probation officer and reported that she was laid off from her employment for missing too much work. The probation officer subsequently contacted the subject's employer and discovered that the subject quit her job at the medical office on 9/28/2007. On 10/30/2007, the subject reported to the probation officer. When she was confronted with her lack of honesty regarding her employment, the subject admitted to lying to the probation officer about her employment status.

As a sanction, to address the subject's lack of honesty and her poor judgment in taking controlled substances not prescribed to her, the subject agreed to participate in a home confinement program with electronic monitoring for a period of two (2) months. The subject was immediately returned to drug testing through a contract vendor in the CD/CA based on her violations. Due to an oversight by the probation officer in the CD/CA, the modification for home confinement was not sent to our office sooner.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives her right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections. Should the subject's noncompliance continue, the Court will be notified.

Respectfully submitted by,



ALYSA K. MAKAHANALOA
U.S. Probation Officer Assistant

Approved by:



TIMOTHY M. JENKINS
Supervising U.S. Probation Officer

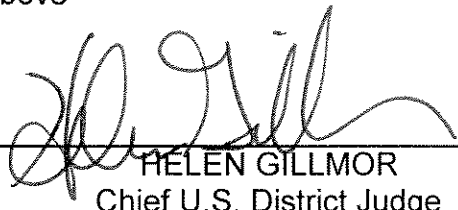
Date: 3/7/2008

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THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above
☐ Other



HELEN GILLMOR
Chief U.S. District Judge

3.7.08

Date

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
PROBATION OFFICE

CONSENT TO MODIFY SUPERVISION ORDER

Re: FERGUSON, KELLEY MARIE


Docket No.: 1:03CR00226-001

I have been advised the U. S. Probation Officer will submit a petition and report to the Court recommending modification(s) of terms and condition of supervision, specifically:

Kelley Marie Ferguson shall participate for a period of two months in a home detention program which may include electronic monitoring, GPS, Alcohol Monitoring Unit or automated identification systems and shall observe all rules of such program, as directed by the Probation Officer. Kelley Marie Ferguson shall maintain a residential telephone line without devices and/or services that may interrupt operation of the monitoring equipment.

Kelley Marie Ferguson shall pay the costs of home confinement monitoring to the contract vendor, not to exceed the sum of \$12.00 for each day of participation. The defendant shall provide payment and proof of payment as instructed.

I consent to the modification(s) and waive a personal appearance before the Court.


KELLEY MARIE FERGUSON
Offender Date 10/30/07


LORETTA A. FAYMONVILLE
Attorney of Record Date 11/1/07


LILLIAN SMITH
U. S. Probation Officer Date 10/30/07